

Philip A. Nicholas (WSB No. 5-1785)
 NICHOLAS & TANGEMAN, LLC
 170 N. Fifth Street
 P.O. Box 0928
 Laramie, WY 82073
 (307) 742-7140
 (307) 742-7160 Fax
nicholas@wyolegal.com
 Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF WYOMING**

SCOTT WHITMIRE

Plaintiff,

vs.

KATHLEEN CARRASCO (a/k/a)
 KATHLEEN WOLF; BRADLEY A.
 WOLF; JENNIFER WOLF; WOLF AUTO
 CENTER, LLC; WOLF'S INTERSTATE
 LEASING AND SALES LLC; WOLF'S
 PINEDALE DIDGE LLC; WOLF'S
 WHITEHALL FORD LLC,
 Defendants.

Case 2:18-cv-00120-ABJ

**DEFENDANTS BRAD AND JENNIFER WOLF'S
 MOTION FOR SUMMARY JUDGMENT**

(Filed in advance of Summary Judgment Deadline and Briefing)

Defendants Brad and Jennifer Wolf file their *Motion for Summary Judgment* in advance of the deadline for filing dispositive motions which is November 18, 2022. Defendants will file their brief in support of their motion for summary before the dispositive motion deadline. This advanced filing will allow Defendants to more accurately cite to the exhibits filed herewith in their brief to follow.¹

Pursuant to Federal Rules of Civil Procedure Rule 56(a) and Local Rule 7.1(b) (2), Defendants Brad and Jennifer Wolf move for *Summary Judgment* on all remaining issues pending

¹ Defendants' Counsel has a trial in Lander, Wyoming the week of November 14, 2022, and this advanced filing will better facilitate his trial work schedule.

against them in this matter. Summary judgment is appropriate because there are no genuine disputes as to any material fact and the Defendants are entitled to judgment on all claims filed against them in this matter as a matter of law.

This motion is supported by the pleadings of record, the Defendant's *Brief in Support of Summary Judgment* to be filed on or before the deadlines for filing dispositive motions, and the following testimony, affidavits, declarations and documents filed with this Motion²:

Exhibit	Prior Filings	Description
1	Transcript	2021.02.18 Day 1 of Adversary Proceeding Transcript
2	Transcript	2021.02.19 Day 1 of Adversary Proceeding Transcript
3	Transcript	2015.11.17 Phillip Wolf's Sworn Debtors Examination
4	BW1	Consent of Auction by Members of Wolf Auto Center, LLC dated January 1, 2018
5	BW2	Consent of Action by Members of Wolf Auto Center, LLC dated September 12, 2018 and Amended, Restated and Corrected Articles of Organization for Wolf Auto Center, LLC
6	BW3	Operating Agreement of Wolf Auto Center, LLC
7	BW4	Wyoming Secretary of State Filing Information for Wolf Auto Center, LLC
8	BW5	Timeline
9	BW7	Brad and Jennifer Wolf Real Estate Equity
10	BW8	Check dated June 20, 2017 for \$25,000.00 to Wyoming Title and Escrow (home purchase McNeal Power Plant Road)
11	BW9	Real estate purchase documents
12	BW10	Travis Way Closing Statement
13	BW11	Settlement Statement for Sale of 1770 Travis Way, Manhattan, MT dated November 6, 2017
14	BW12	Handwritten loan agreement dated October 25, 2017 by Brad Wolf to advance net sale proceeds of Travis Way property to Alliance Capital Group
15	Doc. 55-26	2020.04.29 Declaration of Brad Wolf (Lis Pendens) ("BWA")
16	Doc. 55-1	BWA Exhibit 1 or other notice filed on behalf of Scott Whitmire by Granite Peak Law, PLLC, dated August 2, 2018 and filed on August 6,

² The second column is added for convenience because many documents have already been filed in this matter or were filed in the Phillip Wolf's Bankruptcy Case ("BK"). On September 11, 2019, Scott Whitmire filed an *Amended Adversary Complaint* in Phillip Wolf's personal bankruptcy proceedings. The case was filed in the United States Bankruptcy Court for the District of Wyoming naming as defendants Phillip A. Wolf and Kathleen Carrasco, in Bankruptcy Case No. 18-20733, Chapter 7, and Adversary No. 19-02008, Doc. 9. ("AP").

Exhibit	Prior Filings	Description
		2018 in Book 929 Page 717 entry no. 999299, of the official property records of Lincoln County, Wyoming affecting the home of Brad and Jennifer Wolf located in Lincoln County, Wyoming (Defendants' Exhibits pp. 1-4)
17	Doc. 55-2	BWA Exhibit 2: Is the Lis Pendens attached as Exhibit 2 or other notice filed on behalf of Scott Whitmire by Granite Peak Law, PLLC, dated August 2, 2018, and filed on August 6th, 2018 with the Clerk and Recorder, for Jefferson County.
18	Doc. 55-3	BWA Exhibit 3 which is the Docket Sheet from Civil Action No. 14744 filed in the Ninth Judicial District Court in the matter of Cowboy Automotive, Inc., and Scott Whitmire v. Phillip Wolf, individually and as Wolf AutoGroup, LLC (the "First Civil Action") (Defendants' Exhibits pp. 9-15)
19	Doc. 55-4	BWA Exhibit 4 which is the Complaint filed in the First Civil Action on August 8, 2011 (Defendants' Exhibits pp. 16-20);
20	Doc. 55-5	BWA Exhibit 5 which is the Notice of Deposition of Brad Wolf in the First Civil Action dated May 17, 2010 (Defendants' Exhibits pp. 21-22)
21	Doc. 55-6	Exhibits 6 is an Order and the final Judgement entered in the First Civil Action on November 10, 2010 (Defendants' Exhibits pp.23-24 and 25
22	Doc. 55-7	BWA Exhibits 6 is an Order and the final Judgement entered in the First Civil Action on November 10, 2010 (Defendants' Exhibits pp.23-24 and 25
23	Doc. 55-8	BWA Exhibit 8 which is the Docket Sheet from Civil Action No. 15885 filed in the Ninth Judicial District Court in the matter of <i>Cowboy Automotive, Inc., and Scott Whitmire, Plaintiffs, v. Phillip A. Wolf a/k/a the Juristic Person/Strawman/Dumray Corporation Phillip A. Wolf, Organization a/k/a Philip A. Wolf, Kathleen Wolf a/k/a Kathy Carrasco, Bradley Wolf, Jennifer Wolf, individually and as Wolf Autogroup, LLC., Wolf Auto Center Jackson, LLC., Wolfs Interstate Leasing And Sales, LLC., Alliance Capital Group, LLC., U.S. M/V L.O.C. Trust, U.S. M/V Wolfs Interstate Leasing & Sales ALL/K/A, Defendants</i> (the "Second Civil Action"). The Second Civil Action brought claims under the Wyoming Fraudulent Transfers Act, fraud, and conspiracy to commit fraud (Defendants' Exhibits pp. 33-38)
24	Doc. 55-9	BWA Exhibit 9 which is the <i>Complaint</i> filed in the Second Civil Action (Defendants' Exhibits pp. 39-44)
25	Doc. 55-10	BWA Exhibit 10 which are the <i>Interrogatories</i> issued to Scott Whitmire in the Second Civil Action to which he failed to respond (Defendants' Exhibits pp.45-48)
26	Doc. 55-11	BWA Exhibit 11 which is <i>Plaintiffs' Designation of Expert Witnesses</i> filed by Scott Whitmire in the Second Civil Action naming Kathy Wolf, Brad Wolf, and Jennifer Wolf as expert witnesses in the Second Civil Action (Defendants' Exhibits pp. 49-51)
27	Doc. 55-12	BWA Exhibit 12 which is Scott Whitmire's pleading refusing to be

Exhibit	Prior Filings	Description
		deposed in the Second Civil Action (Defendants' Exhibits pp.52-54)
28	Doc. 55-13	BWA Exhibit 13 which is the <i>Order of Dismissal without Prejudice</i> in the Second Civil Action entered by the Honorable Judge Marvin Tyler(Defendants' Exhibits pp. 55-57)
29	Doc. 55-14	BWA Exhibit 14 which is Defendant's <i>Application for Attorney's Fees and Costs</i> in the Second Civil Action (Defendants' Exhibits pp.56-59)
30	Doc. 55-15	BWA Exhibit 15 which is Judge Marvin Tyler's <i>Order Awarding Defendant's Attorneys Fees and Costs</i> in favor of Brad Wolf entered in the Second Civil Action. Which fees and costs have never been paid or satisfied (Defendants' Exhibits pp.60-67)
31	Doc. 55-16	BWA Exhibit 16 which is the <i>Amended Complaint filed by Scott Whitmire against Kathy Carrasco</i> in Adversary Proceeding No. 19-02008 filed the United States Bankruptcy Case No. 18-20733 of Phillip A. Wolf (the "Fourth Civil Action) (Defendants' Exhibits pp. 68-114)
32	Doc. 55-17	BWA Exhibit 17 which is <i>the Order Dismissing Defendant Kathleen Carrasco</i> entered in the Fourth Civil Action (Defendants' Exhibits pp.115-117)
33	Doc. 55-18	BWA Exhibit 18 which is the <i>Protective Order</i> entered by the Court in the Fourth Civil Action (Defendants' Exhibits pp. 118-124)
34	Doc. 55-19	BWA Exhibit 19 which is <i>Brad and Jennifer Wolf's Responses to Discovery</i> without exhibits served in the Fourth Civil Action (Defendants' Exhibits pp.125-128) [<i>Exhibits are found above.</i>]
35	Doc. 55-20	BWA Exhibit 20 which is a May 29, 2019 email to Mr. Gregory Costanza demanding that the lis pendens be removed as a condition to his withdrawal of counsel (Defendants' Exhibits pp.129-134);
36	Doc. 55-21	BWA Exhibit 21 which is a May 19, 2019 email from Mr. Gregory Costanza advising that he communicate the demand to his client (Defendants' Exhibits pp. 135-137);
37	Doc. 55-22	BWA Exhibit 22 which is a June 18, 2019, email from Mr. Gregory Costanza refusing to remove the lis pendens filed by him (Defendants' Exhibits pp. 138-141);
38	Doc. 55-23	BWA Exhibit 23 timeline showing the time lapses between Civil Action 1, Civil Action 2, these proceedings ("Civil Action 3") and Civil Action 4 (Defendants' Exhibits p. 142);
39	Doc. 55-24	BWA Exhibit 24 is a letter from Scott Whitmire directed to the IRS, copied to the Wyoming State Bar Association and US Attorney (Defendants' Exhibits pp. 143-150)
40	Doc.-55-25	BWA Exhibit 25 which is the <i>Wolf Auto Group, LLC, 2011 Forbearance Agreement for the Jackson Dodge Chrysler and Jeep Dealership and the 2013 threatened foreclosure of that property</i> (Defendants' Exhibits pp. 151-179).
41	AP Doc. 69-2	Declaration of Phillip A. Wolf filed in US Bankruptcy Matter Civil Action 18-20733; Adversary Proceeding 19-2008
42	AP Doc. 69-4	Exhibit A to Phillip Wolf Affidavit Alliance Capital

Exhibit	Prior Filings	Description
43	AP Doc. 69-5	Exhibit B to Phillip Wolf Affidavit Quitclaim Deed-Rice
44	AP Doc. 69-6	Exhibit C Cowboy Automotive and Scott Whitmire Judgment against Phillip Wolf dated December 7, 2010.
45	AP Doc. 69-7	Exhibit G to Phillip Wolf Affidavit Timeline
46	AP Doc. 140	2021.02.01 <i>Adversary Proceeding Supplement</i> filed by Phillip Wolf confirming Alliance Capital received all loan deposits totaling \$195,000 from Brad Wolf Loan
47	Doc. 58-1	Brad and Jennifer Wolf Corrected Response and Supplement to Request for Production
48	Doc. 58-2	2022.05.27 Supplemental Declaration of Brad Wolf (Lis Pendens) Relating to 170 Travis Way, MT Property.
49		2022.09.13 Kathleen Combined Response to First and Second Interrogs
50	AP Doc. 89	Bankruptcy Court's <i>Order Granting in Part and Denying in Part Defendant's Phil Wolf's Motion for Summary Judgment</i> entered in Adversary Case No. 19-02008, No. 89.
51	AP Doc. 145	Bankruptcy Court's <i>Decision Memorandum</i> dated May 10, 2021, in Adversary Case No. 19-02008.
52	AP Doc. 146	<i>Judgment</i> Adversary Case No. 19-02008, Doc. 146.)
53	BK Doc. 51	Phillip Andre Wolf final discharged dated June 2, 2021, in Bankruptcy Case No. 18-20733, Doc. 51.

DATED this 9th day of November, 2022.

/s/ Philip A. Nicholas

Philip A. Nicholas (WSB No. 5-1785)

Nicholas & Tangeman, LLC

170 N. Fifth Street

P.O. Box 0928

Laramie, WY 82073

(307) 742-7140

(307) 742-7160 Fax

nicholas@wyolegal.com

Attorneys for Defendant Brad and Jennifer Wolf

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November 2022, the foregoing pleading was electronically filed with the Clerk of the Court using the CM/ECF system. A copy of the Motion without exhibits was emailed to Scott Whitmire and a paper copy with a thumb drive containing the exhibits filed herewith were served upon Scott Whitmire as follows:

Scott Whitmire
115 Foxridge Road
Sandy Springs, Georgia 30327
scottw_bmw@yahoo.com

/s/ Philip A. Nicholas
Philip A. Nicholas